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BEFORE THE ARIZONA CORPORATION COMMISSION RECEIVED  
AZ CORP COMMISSION

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JIM IRVIN  
COMMISSIONER- CHAIRMAN  
RENZ D. JENNINGS  
COMMISSIONER  
CARL J. KUNASEK  
COMMISSIONER

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IN THE MATTER OF THE COMPETITION IN )  
THE PROVISION OF ELECTRIC SERVICES )  
THROUGHOUT THE STATE OF ARIZONA. )

DOCKET NO. RE-00000F-94-0165

**FIFTH AMENDED  
PROCEDURAL ORDER**

**BY THE COMMISSION:**

The Arizona Corporation Commission ("Commission") issued Decision No. 59943, dated December 26, 1996, which approved new rules A.A.C. R14-2-1601 through R14-2-1616 ("Rules" or "Electric Competition Rules"). On August 29, 1997, the Commission issued Decision No. 60351, in which the Hearing Division was directed "to produce procedural orders in order to establish hearings, evidentiary or otherwise, regarding any aspect of electric competition that is necessary and appropriate."

Our December 1, 1997 Procedural Order set an evidentiary hearing commencing on February 9, 1998 on issues related to stranded costs. Subsequently, our December 1, 1997 Procedural Order was modified by our Procedural Orders dated December 11, 1997, December 15, 1997, January 5, 1998 and January 16, 1998.

On January 13, 1998, ASARCO Incorporated, Cyprus Climax Metals Corporation, and ENRON Corporation, (collectively referred to as "Consumers") filed a Motion for Amended Procedural Order ("Consumers Motion"). On January 13, 1998, Arizona Public Service Company ("APS") filed a Motion to Amend Procedural Orders ("APS Motion"). On January 15, 1998, the Residential Utility Consumers Office ("RUCO") filed its Response to both the Consumers Motion and APS Motion.

According to the Consumers, the above schedule grants the Affected Utilities an unfair advantage because the other parties are required to file their rebuttal to the Affected Utilities direct testimony on January 21, 1998 and the Affected Utilities do not file their rebuttal until February 2, 1998. Further, the schedule permits the Affected Utilities an opportunity to file testimony directed at the other parties rebuttal testimony while the other parties will not have the opportunity to comment on the Affected Utilities rebuttal testimony. As a result, the Consumers requested all rebuttal be due on February 2, 1998.

1 The APS Motion indicated that the Commission's Third Amended Procedural Order had granted  
2 an extension of five days for filing of testimony by Staff and other parties. According to APS, the  
3 Affected Utilities should also be entitled to a similar extension to file rebuttal testimony from the current  
4 February 2, 1998 date to February 6, 1998. APS asserted that the current schedule allows the other  
5 parties a longer period of time to prepare their first rebuttal than do the Affected Utilities for their only  
6 such opportunity and over twice as long to prepare intervenors second round of rebuttal.

7 RUCO concurred with the Consumers Motion to have all rebuttal filed on February 2, 1998.  
8 According to RUCO, the current schedule places an unfair burden on the other parties since they must  
9 divide their limited resources between preparing both direct and rebuttal testimony.

10 The various motions were heard at our January 23, 1998 Procedural Conference. At that time it  
11 was determined that all parties who have already filed testimony in this matter could file rebuttal to the  
12 testimony of any other party. In addition, the parties were to jointly file a matrix which set forth the  
13 issues in this case and the respective positions of the parties.

14 IT IS THEREFORE ORDERED that all parties shall file rebuttal testimony and associated  
15 exhibits on or before 4:00 p.m. on February 4, 1998.

16 IT IS FURTHER ORDERED that all testimony must include a summary.

17 IT IS FURTHER ORDERED that, in addition to filing testimony with the Commission's Docket  
18 Control, parties shall file two copies of all testimony and summaries with the Hearing Division.

19 IT IS FURTHER ORDERED that all parties shall provide five copies of each witnesses' pre-filed  
20 direct and rebuttal testimony at the time the witness testifies.

21 IT IS FURTHER ORDERED that a procedural conference shall be held on February 5, 1998 at  
22 1:30 p.m., at the Commission's offices in Phoenix, Arizona to discuss the scheduling of witnesses and  
23 the conduct of the hearing.

24 IT IS FURTHER ORDERED that all the parties shall jointly<sup>1</sup> file with the Presiding Officer the  
25 following on or before February 5, 1998 at 1:30 p.m.:

26 A) A joint pre-hearing matrix which sets forth all the issues on which the parties agree and  
27

28 <sup>1</sup> RUCO has volunteered to draft the matrix with input from all the parties. Accordingly,  
the parties shall contact RUCO and provide all required information.

all the issues on which they disagree; and

- B) For those issues in which there is disagreement, each party should set forth their respective positions including any applicable law and the manner in which they recommend their disagreement be resolved by the Commission.

DATED this 18th day of January, 1998.

  
JERRY L. RUDIBAUGH  
CHIEF HEARING OFFICER

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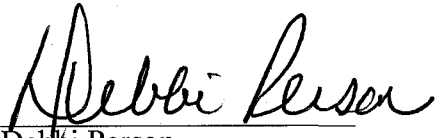
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